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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/177,251	10/22/1998	ERIC C. ANDERSON	1062P/P180	2859
29141	7590	03/23/2004	EXAMINER	
SAWYER LAW GROUP LLP P O BOX 51418 PALO ALTO, CA 94303			HARRIS, TIA M	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/177,251

Applicant(s)

ANDERSON, ERIC C.

Examiner

Tia M Harris

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-7, 9-22, 28, 30, 32, 34, 36 and 38-42.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

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1. The period for reply is extended to run 4 MONTHS from the date of the final rejection. Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a) accompanied by the appropriate fee. The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. A reply within the meaning of 37 CFR 1.113 or a request for a continued examination (RCE) in compliance with 37 CFR 1.114 must be timely filed to avoid abandonment of this application.

2. The request for reconsideration has been entered and considered but does not overcome the rejection because:

a. Applicant argues, regarding claims 1-2, 4-7, 10-11, 13-21, 28, 32 and 34, "Wakabayashi (4825235) fails to mention setting the aperture size after the focus zone has been shifted and such that the focus zone is not shifted". The Examiner respectfully disagrees with this assessment of the Wakabayashi reference because once the focus zone has been shifted so as to achieve the desired effect of "the at least one object (being) out of focus", there is no need to change the focus zone. In other words, if the depth of field is at the desired position, it no longer needs to be adjusted. Thus the aperture is set at the desired position and the focus zone is not shifted.

b. Applicant further argues, regarding claims 3, 9, 12, 22, 30, and 36, "Wakabayashi appears to always use the aperture size to change the size of the focus zone" rather than "adjusting the aperture size to change the size of the focus zone only if shifting the focus zone alone is not sufficient for the at least one object to be out of focus". In response, the teaching of Wakabayashi is used to show that it is old and well established in the art to change the size of an aperture in order to obtain a desired depth of field. Therefore, in the combination of references, when a desired depth of field has

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not yet been achieved, Wakabayashi teaches to change the size of the aperture in order to shift the focus zone.

c. Applicant also argues, regarding claims 38-42, no determination is made in Ikemori (4826301) of whether a shift in the focus zone is sufficient to provide the soft focus. However, in the rejection of these claims, Wakabayashi is used for this teaching. In Wakabayashi, if it is determined that the soft-focus effect needs to be improved, a shortening of the focus zone is implemented.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tia M Harris whose telephone number is 703-305-4807. The examiner can normally be reached on M-F 8:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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3/23/04



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